IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1074 of 1988
Date of decision: 12.7.2006.

Smt.Chawli Devi v. Jeet Ram and others.

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Present: None for the appellant.

Mr.Deepak Mishra, Assistant Advocate General, Haryana for the State.

Rajesh Bindal, J.

This is an appeal against award dated 21.5.1988, passed by Motor Accident Claims Tribunal, Ambala (for short, 'the Tribunal') in M.A.C.T. Case No.67 of 1987, filed by widow mother of deceased-Amar Singh for enhancement of compensation.

Briefly, the facts are that Amar Singh died in an accident occurred on 24.9.1987 with a Haryana Roadways Bus No.HYE-9202. The accident has been duly proved. The only dispute in the present case is about the quantum of compensation awarded to the appellant by the Tribunal.

Deceased-Amar Singh was 19 years of age at the time of death and was unmarried. He had widow mother and un-married sister-Usha Devi. In oral evidence, appellant-Chawli Devi stated that her deceased son having studied upto Middle standard and passing the course of carpentry used to work at Sadhaura and was earning Rs.70/- to Rs.80/- per day, which he used to give to her for family expenses as there was no other earning member in the family. The statement of the appellant was supported by the unmarried sister of the deceased and also by one Lachhi Ram son of Gobind Ram (P.W.3), who was running a furniture shop at Sadhaura. He also stated that the deceased used to work at his shop for manufacture of double-bed, sofa, table, chairs etc. and he was paying Rs.70/- to Rs.80/- per day to the deceased.

A perusal of the lower court record shows that there is a photo copy of the certificate issued by District Rural Development Agency, Ambala, from

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where it is evident that deceased-Amar Singh had successfully completed the training of carpentry from May, 1985 to April, 1986 from Carpentry Training Centre, Saha. Even though this certificate has not been proved on the file, but a photo copy thereof is on record. The Tribunal, while assessing the compensation, discarded the oral evidence by observing that since there is no documentary evidence on the record to prove the earning of the deceased, it cannot be assumed that the deceased was earning more than Rs.700/- to Rs.800/- per month before his death. While assessing the dependency and contribution towards the family, by taking into account the fact that the deceased was unmarried and was likely to marry in near future and thereafter his contribution to the family would have reduced, the Tribunal assessed the dependency at Rs.2500/- per annum and applying the multiplier of 16, keeping in view the age of the claimant as 40, awarded Rs.40,000/- as compensation.

No one has appeared for the appellant.

I have heard learned counsel for the State and proceeded to decide the matter on merits, keeping in view the fact that this appeal is of the year 1988.

A reading of the oral evidence on record shows that all the three witnesses, namely, P.W.1- Chawli Devi (claimant-appellant); P.W.2 Usha Devi (sister of the deceased) and P.W.3- Lachhi Ram (owner of the shop where the deceased was working) had stated that he was a qualified carpenter and was earning Rs.70/- to Rs.80/- per day. Though the certificate of successful completion of carpentry training from District Rural Development Agency, Saha has not been proved on record, but on a perusal of photo copy of the same, which is on record, the factum of the deceased having successfully completed the training is corroborated. One cannot lose sight of the fact that in rural areas, small businessmen do not maintain systematic record, especially about 18 years back when the accident took place. Keeping in view the evidence on record, in my view, Rs.1200/- per month would be the reasonable amount to be assessed as income of

the deceased.

Now coming to the contribution of the deceased towards the family, though it cannot be lost sight of the fact that the deceased, a young boy of 19 years, would have married in near future and would have contributed towards his own family, but his responsibility towards his widow mother and unmarried sister cannot be lost sight of, especially when there is no other earning member in the family.

In view of above discussions,, the dependency of the appellant cannot be assessed as low as Rs.2500/- per annum, as has been done by the Tribunal. In my view, reasonable amount of contribution towards the family on account of dependency would be Rs.500/- per month. Applying a multiplier of 16, as has been rightly applied by the Tribunal, the amount of compensation is assessed at Rs.96,000/-. In addition to this, the appellant would also be entitled to Rs.2,000/- on account of funeral expenses. The enhanced amount of compensation be paid to the claimant-appellant along with interest, as directed by the Tribunal.

The award of the Tribunal is modified to the extent indicated above.

The appeal is disposed of accordingly.

Since no one has appeared for the appellant, Registry is directed to send a copy of the order to the appellant to enable her to execute the same.

(Rajesh Bindal)
Judge

12.7.2006
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